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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS  
United States District Court  
Southern District of Texas

**ENTERED**

James K. Collins,

Plaintiff,

*versus*

D.R. Horton-Texas, LTD.,

Defendant.

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February 09, 2021

Nathan Ochsner, Clerk

Civil Action H-20-1897

### Opinion on Dismissal

1. *Background.*

D.R. Horton-Texas, LTD., purchased land in Montgomery County, Texas, to subdivide. Its land abuts land owned by Toni and James Collins.

While Horton was surveying its property, Collins built a fence on Horton's land and claimed it as his. In that case, the state trial court ruled that the land belongs to Horton, and the Fourteenth Court of Appeals affirmed that judgment.

James Collins now sues Horton over the same property. He will lose.

2. *Res Judicata.*

*Res judicata* precludes a case when: (a) the parties are the same in it and the prior case; (b) the judgment in the prior action was rendered by a court of competent jurisdiction; (c) the final judgment was on the merits; and (d) the actions are about the same claim.<sup>1</sup> All four elements are met.

The parties are identical to those in the state suit, as is the claim – in both cases, Collins attacks the validity of the 1944 federal judgment that

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<sup>1</sup> See *Test Masters Educ. Servs., Inc. v. Singh*, 428 F.3d 59, 571 (5th Cir. 2005).

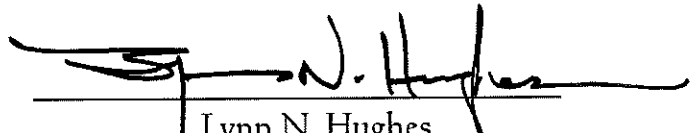
established the survey boundaries.<sup>2</sup>

The Texas District Court in Montgomery County is of competent jurisdiction and well-learned in land law. The Montgomery County court signed a judgment for Horton and quieted title to the property in it.<sup>3</sup> The Texas appellate court affirmed<sup>4</sup>, and the Texas and United States Supreme Courts denied certiorari. The judgment is final.

3. *Conclusion.*

Because this case is barred by *res judicata*, it will be dismissed with prejudice. The 1944 federal judgment endures.

Signed on February 9, 2021, at Houston, Texas.

  
Lynn N. Hughes  
United States District Judge

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<sup>2</sup> *McCormack, et al. v. Grogan-Cochran Lumber Company, et al.*, Cause No. 666 (S.D.T.X. May 31, 1944).

<sup>3</sup> *D.R. Horton-Texas, LTD. v. Collins, et al.*, No. 15-04-04236-CV, (284th Dist. Ct.—Montgomery County Nov. 8, 2016).

<sup>4</sup> *Collins v. D.R. Horton-Texas, LTD.*, 574 S.W.3d 39 (Tex. App.—Houston [14th Dist.] 2018).